



## **CONFIRMED MINUTES**

## **SPECIAL COUNCIL MEETING**

**23 AUGUST 2022**

I certify that the minutes of the meeting of the Special Council held on Tuesday, 23 August 2022 were confirmed on Tuesday, 13 September 2022.

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a series of loops and a final flourish.

\_\_\_\_\_  
Presiding Person



**CONFIRMED MINUTES  
SPECIAL COUNCIL MEETING  
23 AUGUST 2022**

**ATTENTION/DISCLAIMER**

The purpose of this Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by an Elected Member or employee, or on the content of any discussion occurring during the course of the Meeting. Persons should be aware that regulation 10 of the *Local Government (Administration) Regulations 1996* establishes procedures to revoke or change a Council decision. No person should rely on the decisions made by Council until formal written advice of the Council decision is received by that person.

The Shire of Mundaring expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by an Elected Member or employee, or the content of any discussion occurring during the course of the Council Meeting.

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## SPECIAL COUNCIL MEETING COUNCIL CHAMBER

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### 1.0 OPENING PROCEDURES

The Presiding Person declared the meeting open at 6.30pm.

#### Acknowledgement of Country

Shire of Mundaring respectfully acknowledges the Whadjuk people of the Noongar Nation, who are the traditional custodians of this land. We acknowledge Elders past, present and emerging and respect their continuing culture and the contribution they make to the region.

#### Recording of Meeting

Members of Council and members of the gallery are advised that this meeting will be livestreamed and audio-recorded.

### 1.1 Record of Attendance

<b>Elected Members</b>	Cr James Martin (Shire President) (Presiding Person)	South Ward
	Cr Trish Cook	South Ward
	Cr Luke Ellery	South Ward
	Cr Paige McNeil (Deputy President)	Central Ward
	Cr Amy Collins	Central Ward
	Cr Doug Jeans	Central Ward
	Cr John Daw	East Ward
	Cr Claire Hurst	East Ward
	Cr Neridah Zlatnik	East Ward
	Cr Karen Beale	West Ward
	Cr Jo Cicchini	West Ward
<b>Staff</b>	Jonathan Throssell	Chief Executive Officer
	Garry Bird	Director Corporate Services
	Megan Griffiths	Director Strategic & Community Services
	Shane Purdy	Director Infrastructure Services
	Steve Trlin	Acting Director Statutory Services
	Anna Italiano	Minute Secretary
<b>Apologies</b>	Cr Matthew Corica	West Ward
<b>Absent</b>	Nil	
<b>Leave of Absence</b>	Nil	
<b>Guests</b>	Nil	
<b>Members of the Public</b>	Nil	
<b>Members of the Press</b>	Nil	

6.31pm Cr Jeans left the meeting.

## **2.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

## **3.0 DECLARATION OF INTEREST**

### **3.1 Declaration of Financial Interest and Proximity Interests**

Elected Members must disclose the nature of their interest in matters to be discussed at the meeting (*Part 5 Division 6 of the Local Government Act 1995*).

Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting (*Sections 5.70 and 5.71 of the Local Government Act 1995*).

Nil

### **3.2 Declaration of Interest Affecting Impartiality**

An Elected Member or an employee who has an interest in a matter to be discussed at the meeting must disclose that interest (*Shire of Mundaring Code of Conduct, Local Government (Admin) Reg. 34C*).

Nil

## **4.0 PUBLIC QUESTION TIME**

15 minutes (with a possible extension of two extra 15 minute periods) are set aside at the beginning of each Council meeting to allow members of the public to ask questions of Council.

Public Question Time is to be conducted in accordance with Shire of Mundaring Meeting Procedures Local Law 2015.

Nil

## **5.0 PRESENTATIONS**

### **5.1 Deputations**

Nil

### **5.2 Petitions**

Nil

### **5.3 Presentations**

Nil

## 6.0 REPORTS OF EMPLOYEES

### 6.1 Amendment to 2022/23 Annual Budget - Due dates for the Payment of Rates

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<b>File Code</b>	FI.BUD 2223
<b>Author</b>	Stan Kocian, Manager Finance and Governance
<b>Senior Employee</b>	Garry Bird, Director Corporate Services
<b>Disclosure of Any Interest</b>	Nil
<b>Attachments</b>	Nil

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#### SUMMARY

Due to technical issues there was a delay in the production of the 2022/23 rates notices. The due date for rates cannot be earlier than 35 days after the date of issue noted on the rates notice. The delay in the originally scheduled date of issue for the rates notices would have likely resulted in one less day for ratepayers to pay their rates than the required 35 days, as the likely date of lodgement with Australia Post would have been a day later than scheduled.

Accordingly Council is requested to amend the due date for rates payments that Council had adopted as part of the Annual Budget (**per decision SC6.07.22**) in order to avoid potential risk and to ensure compliance with the *Local Government Act 1995*.

#### BACKGROUND

When adopting the 2022/23 budget Council adopted the following due dates for the payments of rates:

1. Full payment and 1st instalment due date 20 September 2022
2. 2nd instalment due date 22 November 2022
3. 3rd instalment due date 24 January 2023
4. 4th and final instalment due date 28 March 2023

#### STATUTORY / LEGAL IMPLICATIONS

In accordance with section 6.50 of the *Local Government Act 1995* ("the Act") the due date and instalment payment dates must comply with the following requirements:

1. The due date for payment of rates is not to be earlier than 35 days after the date noted on the rate notice as the date the rate notice was issued; and
2. Where a person elects to pay their rates by instalments the second and each subsequent instalment does not become due and payable at intervals of less than 2 months.

#### POLICY IMPLICATIONS

Nil

## FINANCIAL IMPLICATIONS

The cost of producing and mailing the Shire's annual rates notices is approximately \$31,000 per annum, which is provided for in the budget.

## STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 4 - Governance

Objective 4.4 – High standard of governance and accountability

Strategy 4.4.8 – Compliance with the Local Government Act 1995 and all relevant legislation and regulations

## SUSTAINABILITY IMPLICATIONS

Nil

## RISK IMPLICATIONS

<b>Risk:</b> Compliance and Reputational risk. The delay in the issue of the annual rates notices with the current adopted due dates for payment could lead to the legal validity of the rates being challenged by ratepayers.		
Likelihood	Consequence	Rating
Likely	Moderate	High
Action / Strategy		
Council amends the due dates for the payment of rates.		

## EXTERNAL CONSULTATION

Nil

## COMMENT

Under the Act the due date for rates cannot be earlier than 35 days after the date of issue noted on the rates notice. The originally scheduled date of issue for rates was 16 August 2022, therefore rates and services charges were originally set to be due and payable on 20 September 2022. Technical issues with the production of the rates notices resulted in the likely lodgement date being delayed until 17 August 2022. To proceed on this basis (ie with the originally scheduled dates) would have resulted in a day's difference between the date of the issue on the rates notice and the actual date of issue, and therefore would have provided ratepayers only 34 days to pay their rates (or to elect to pay via the four instalments option).

Proceeding with the issuing of the rates notices under these circumstances could have left the Shire open to a challenge to the legal validity of its rates for 2022/23. The best course of action in these circumstance is for Council to amend the 2022/23 budget and to adopt revised due dates for the payment of rates.

Should Council adopt the recommendation the likely actual issue date for rates will be Thursday, 25 August 2022 (and possibly Wednesday, 24 August 2022). The issue date noted on the rates notice will be Friday, 26 August 2022.

As measure to ensure this situation does not arise again, all future recommendations regarding the due dates for the payment of rates will be structured in such way to provide the flexibility so that the due dates, once adopted, can be amended without seeking further Council approval to do so.

### **VOTING REQUIREMENT**

Absolute Majority - *Local Government Act 1995* section 6.8

<b>COUNCIL DECISION RECOMMENDATION</b>		<b>SC1.08.22</b>	
Moved by	Cr Ellery	Seconded by	Cr Collins

That Council, by absolute majority, amends the Annual Budget for 2022/23 and adopts the following dates for the payment of rates:

1. Full payment and first instalment due date of 3 October 2022 or 35 days after the date of issue appearing on the rates notice, whichever is the later;
2. Second instalment due date of 12 December 2022 or two months after the due date of the first instalment, whichever is the later;
3. Third instalment due date of 17 February 2023 or two months after the due date of the second instalment, whichever is the later; and
4. Fourth and final instalment due date of 28 April 2023 or two months after the due date of the third instalment, whichever is the later.

### **CARRIED BY ABSOLUTE MAJORITY 10/0**

**For:** Cr Martin, Cr Cook, Cr Ellery, Cr McNeil, Cr Collins, Cr Daw, Cr Zlatnik, Cr Beale, Cr Cicchini and Cr Hurst

**Against:** Nil

Cr Jeans left the meeting prior to the recommendation being voted on and did not vote.



## **7.0 CLOSING PROCEDURES**

### **7.1 Date, Time and Place of the Next Meeting**

The next Ordinary Council meeting will be held on Tuesday, 13 September 2022 at 6.30pm in the Council Chamber.

### **7.2 Closure of the Meeting**

The President Person declared the meeting closed at 6.35pm.